

**THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION  
CRIMINAL CASE NO. 1:08-cr-00016-MR**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**vs.**

**MATTHEW JAMES DURY,**

**Defendant.**

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**ORDER**

**THIS MATTER** is before the Court upon the Defendant's "Motion for Immediate Deportation" [Doc. 166] and the Defendant's "Motion to the Court of Violation of the Civil Rights Act Discrimination of Sexual Orientation" [Doc. 167].

In his first motion, the Defendant seeks his immediate deportation to Switzerland. The Defendant claims that he was born in Switzerland and was kidnapped as a baby and smuggled into the United States. [Doc. 166]. The Defendant's motion is frivolous and is therefore denied.

In his second motion, the Defendant argues that in prosecuting him for his crimes, the Government unlawfully discriminated against him based upon his sexual orientation. [Doc. 167]. To the extent that the Defendant wishes to raise such claims, he must first seek authorization from the United States

Court of Appeals for the Fourth Circuit to file a second or successive motion pursuant to 28 U.S.C. § 2255. See 28 U.S.C. § 2255(h). The Defendant has provided no evidence that he has secured such authorization here. Accordingly, this Court is without jurisdiction to consider the merits of the Defendant's motion, and it therefore will be dismissed.

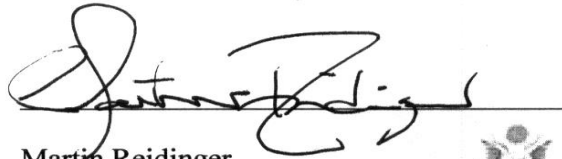
Pursuant to Rule 11(a) of the Rules Governing Section 2255 Cases, the Court declines to issue a certificate of appealability as the Defendant has not made a substantial showing of a denial of a constitutional right. 28 U.S.C. § 2253(c)(2); Miller–El v. Cockrell, 537 U.S. 322, 336-38 (2003) (in order to satisfy § 2253(c), a petitioner must demonstrate that reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong); Slack v. McDaniel, 529 U.S. 473, 484 (2000) (holding that when relief is denied on procedural grounds, a petitioner must establish both that the correctness of the dispositive procedural ruling is debatable, and that the petition states a debatably valid claim of the denial of a constitutional right).

**IT IS, THEREFORE, ORDERED** that the Defendant's "Motion for Immediate Deportation" [Doc. 166] and the Defendant's "Motion to the Court of Violation of the Civil Rights Act Discrimination of Sexual Orientation" [Doc. 167] are **DENIED**.

**IT IS FURTHER ORDERED** that pursuant to Rule 11(a) of the Rules Governing Section 2255 Cases, the Court declines to issue a certificate of appealability.

**IT IS SO ORDERED.**

Signed: February 25, 2020

  
Martin Reidinger  
United States District Judge

